



4000-01-U

DEPARTMENT OF EDUCATION

Eligibility Designations and Applications for Waiver of Eligibility Requirements; Programs under Parts A and F of Title III of the Higher Education Act of 1965, as amended (HEA), and Programs under Title V of the HEA

AGENCY: Office of Postsecondary Education, Department of Education (Department).

ACTION: Notice.

SUMMARY: The Department announces the process for designation of eligible institutions and invites applications for waiver of eligibility requirements for fiscal year (FY) 2018, for the following programs:

1. Programs authorized under Part A, Title III of the HEA: Strengthening Institutions Program (Part A SIP), Alaska Native and Native Hawaiian-Serving Institutions (Part A ANNH), Predominantly Black Institutions (Part A PBI), Native American-Serving Nontribal Institutions (Part A NASNTI), and Asian American and Native American Pacific Islander-Serving Institutions (Part A AANAPISI).

2. Programs authorized under Part F, Title III of the HEA: Hispanic-Serving Institutions STEM and Articulation (Part F, HSI STEM and Articulation), Predominantly Black Institutions (Part F PBI), Alaska Native and Native

Hawaiian-Serving Institutions (Part F ANNH), Native American-Serving Nontribal Institutions (Part F NASNTI), and Asian American and Native American Pacific Islander-Serving Institutions (Part F AANAPISI).

3. Programs authorized under Title V of the HEA: Developing Hispanic-Serving Institutions (HSI) and Promoting Postbaccalaureate Opportunities for Hispanic Americans (PPOHA).

DATES:

Applications Available: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Deadline for Transmittal of Applications: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Christopher Smith, Institutional Service, U.S. Department of Education, 400 Maryland Avenue, SW., room 250-10, Washington, DC 20202. Telephone: (202)453-7946, or by email: Christopher.smith@ed.gov.

If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1-800-877-8339.

Special Note: Section 312 of the HEA and 34 CFR 607.2-607.5 include most of the basic eligibility requirements for grant programs authorized under Titles III and V of the

HEA. Section 312(b)(1)(B) of the HEA provides that, to be eligible for these programs, an institution of higher education's (IHE's or institution's) average "educational and general expenditures" (E&G) per full-time equivalent (FTE) undergraduate student must be less than the average E&G expenditures per FTE undergraduate student of institutions that offer similar instruction in that year.

Since 2004, the National Center for Educational Statistics (NCES) has calculated Core Expenses per FTE of institutions, a statistic similar to E&G per FTE. Both E&G per FTE and Core Expenses per FTE are based on regular operational expenditures of institutions (excluding auxiliary enterprises, independent operations, and hospital expenses). They differ only in that E&G per FTE is based on fall undergraduate enrollment, while Core Expenses per FTE is based on 12-month undergraduate enrollment for the academic year.

To avoid inconsistency in the data submitted to, and produced by, the Department, for the purpose of section 312(b)(1)(B) of the HEA, E&G per FTE is calculated using the same methodology as Core Expenses per FTE. Accordingly, with regard to this and future notices inviting applications for waivers of eligibility requirements, to calculate E&G per FTE for the purpose of

determining institutional eligibility for programs under Title V and Part A and Part F of Title III of the HEA, the Department will apply the NCES methodology for calculating Core Expenses per FTE. Institutions requesting an eligibility waiver determination must use the Core Expenses per FTE data reported to NCES' Integrated Postsecondary Education Data System (IPEDS) for the most currently available academic year, in this case academic year 2015-2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Programs:

The Part A SIP, Part A ANNH, Part A PBI, Part A NASNTI, and Part A AANAPISI programs are authorized under Title III, Part A, of the HEA. The HSI and PPOHA programs are authorized under Title V of the HEA. The Part F, HSI STEM and Articulation, Part F PBI, Part F AANAPISI, Part F ANNH, and Part F NASNTI programs are authorized under Title III, Part F of the HEA. Please note that certain programs in this notice have the same or similar names as other programs that are authorized under a different statutory authority. For this reason, we specify the statutory authority as part of the acronym for certain programs.

Under the programs discussed above, institutions are eligible to apply for grants if they meet specific statutory and regulatory eligibility requirements. An IHE that is designated as an eligible institution may also receive a waiver of certain non-Federal cost-sharing requirements for one year under the Federal Supplemental Educational Opportunity Grant (FSEOG) program authorized by Part A, Title IV of the HEA and the Federal Work-Study (FWS) program authorized by section 443 of the HEA. Qualified institutions may receive the FSEOG and FWS waivers for one year even if they do not receive a grant under the Title III or Title V programs. An applicant that receives a grant from the Student Support Services (SSS) program that is authorized under section 402D of the HEA, 20 U.S.C. 1070a-14, may receive a waiver of the required non-Federal cost share for institutions for the duration of the grant. An applicant that receives a grant from the Undergraduate International Studies and Foreign Language (UISFL) program that is authorized under section 604 of the HEA, 20 U.S.C. 1124, may receive a waiver or reduction of the required non-Federal cost share for institutions for the duration of the grant.

Special Note: To qualify as an eligible institution under the grant programs listed in this notice, your institution

must satisfy several criteria. For most of these programs, these criteria include those that relate to the enrollment of needy students and to Core Expenses per FTE student count for a specified base year. The most recent data available in IPEDS for Core Expenses per FTE are for base year 2015-2016. In order to award FY 2018 grants in a timely manner, we will use these data to evaluate eligibility.

Accordingly, all institutions interested in either applying for a new grant under the Title III or Title V programs addressed in this notice, or requesting a waiver of the non-Federal cost share, must be designated as an eligible institution for FY 2018. Under the HEA, any IHE interested in applying for a grant under any of these programs must first be designated as an eligible institution. (34 CFR 606.5 and 607.5).

ELIGIBLE APPLICANTS:

The eligibility requirements for the programs authorized under Part A of Title III of the HEA are in sections 312 and 317-320 of the HEA (20 U.S.C. 1058, 1059d-1059g) and in 34 CFR 607.2 through 607.5. The regulations may be accessed at: www.ecfr.gov/cgi-bin/text-idx?SID=bc12bf5d685021e069cd1a15352b381a&mc=true&node=pt34.3.607&rgn=div5.

The eligibility requirements for the programs authorized by Part F of Title III of the HEA are in section 371 of the HEA (20 U.S.C. 1067q). There are currently no specific regulations for these programs.

The eligibility requirements for the Title V HSI program are in Part A of Title V of the HEA and in 34 CFR 606.2 through 34 CFR 606.5. The regulations may be accessed at: www.ecfr.gov/cgi-bin/text-idx?SID=bc12bf5d685021e069cd1a15352b381a&mc=true&node=pt34.3.606&rgn=div51.

The requirements for the PPOHA program are in Part B of Title V of the HEA and in the notice of final requirements published in the *Federal Register* on July 27, 2010 (75 FR 44055), and in 34 CFR 606.2(a) and (b), and 606.3 through 606.5.

The Department has instituted a process known as the Eligibility Matrix (EM), under which we will use information submitted by IHEs to IPEDS to determine which institutions meet the basic eligibility requirements for the programs authorized by Title III or Title V of the HEA listed above. We will use enrollment and fiscal data for the 2015-2016 year submitted by institutions to IPEDS to make eligibility determinations for FY 2018. Beginning [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], an

institution will be able to review the Department's decision on whether it is eligible for the grant programs authorized by Titles III or V of the HEA through this process by checking the institution's eligibility in the Eligibility system linked through the Department's Institutional Service Eligibility website at:
<http://www2.ed.gov/about/offices/list/ope/ides/eligibility.html>.

The EM is part of the Department's Eligibility system. The EM is a read-only worksheet that lists all potentially eligible postsecondary institutions, as determined by the Department using the data described above. If the entry for your institution in the EM shows that your institution is eligible to apply for a grant for a particular program, and you plan to submit an application for a grant in that program, you will not need to apply for eligibility or for a waiver through the process described in this notice. Rather, you may print out the eligibility letter directly. However, if the EM does not show that your institution is eligible for a program in which you plan to apply for a grant, you must submit a waiver request as discussed in this notice before the [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]deadline.

To check your institution's eligibility in the EM, go to the website <https://hepis.ed.gov/title3and5/>, click the "Application for Designation as an Eligible Institution" link, and then click the "Check Eligibility" link. You may search the EM by institution name, IPEDS unit ID number, or OPE ID number. If you are inquiring about general eligibility, look up your institution's name under the SIP column. If you are inquiring about specific program eligibility, look under that program's column.

If the EM does not show that your institution is eligible for a program, or if your institution does not appear in the EM data system, or if you disagree with the eligibility determination reflected in the EM data system, you can apply for a waiver or reconsideration through the process described in this notice. The waiver application process is the same as in previous years; you will choose the waiver option on the website at <https://hepis.ed.gov/title3and5/> and submit your institution's waiver request.

ENROLLMENT OF NEEDY STUDENTS: For the Title III and V programs (excluding the PBI programs), an institution is considered to have an enrollment of needy students if: (1) at least 50 percent of its degree-seeking students received financial assistance under the Federal Pell Grant, FSEOG,

FWS, or the Federal Perkins Loan programs; or (2) the percentage of its undergraduate degree-seeking students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the average percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offer similar instruction.

To qualify under this latter criterion, an institution's Federal Pell Grant percentage for base year 2015-2016 must be more than the average for its category of comparable institutions provided in the 2015-2016 Average Pell Grant and Core Expenses per FTE Student table in this notice. If your institution qualifies under the first criterion, under which at least 50 percent of its degree-seeking students received financial assistance under one of several Federal student aid programs (the Federal Pell Grant, FSEOG, FWS, or the Federal Perkins Loan programs), but not the second criterion, under which an institution's Federal Pell Grant percentage for base year 2015-2016 must be more than the average for its category of comparable institutions provided in the 2015-2016 Average Pell Grant and Core Expenses per FTE Student table in this notice, you must submit a waiver request including the requested data, which is not available in IPEDS.

For the definition of "Enrollment of Needy Students," for purposes of the Part A PBI program see section 318(b)(2) of the HEA, and for purposes of the Part F PBI program see section 371(c)(9) of the HEA.

CORE EXPENSES PER FTE STUDENT: For the Title III, Part A SIP; Part A ANNH; Part A PBI; Part A NASNTI; Part A AANAPISI; Title III, Part F HSI STEM and Articulation; Part F PBI; Part F AANAPISI; Part F ANNH; Part F NASNTI; Title V, Part A HSI, and Title V, Part B PPOHA programs, an institution should compare its base year 2015-2016 Core Expenses per FTE student to the average Core Expenses per FTE student for its category of comparable institutions in the base year 2015-2016 Average Pell Grant and Average Core Expenses per FTE Student Table in this notice. The institution meets this eligibility requirement under these programs if its Core Expenses for the 2015-2016 base year are less than the average for its category of comparable institutions.

Core Expenses are defined as the total expenses for the essential education activities of the institution. Core Expenses for public institutions reporting under the Governmental Accounting Standards Board (GASB) requirements include expenses for instruction, research, public service, academic support, student services, institutional support,

operation and maintenance of plant, depreciation, scholarships and fellowships, interest, and other operating and non-operating expenses. Core Expenses for institutions reporting under the Financial Accounting Standards Board (FASB) standards (primarily private, not-for-profit, and for-profit) include expenses for instruction, research, public service, academic support, student services, institutional support, net grant aid to students, and other expenses. Do NOT include Federal student financial aid. For both FASB and GASB institutions, core expenses exclude expenses for auxiliary enterprises (e.g., bookstores, dormitories), hospitals, and independent operations. The following table identifies the relevant average Federal Pell Grant percentages for the base year 2015-2016 and the relevant Core Expenses per FTE student for the base year 2015-2016 for the four categories of comparable institutions:

Type of Institution	Base Year 2015-2016 Average Pell Grant Percentage	Base Year 2015-2016 Average Core Expenses per FTE Student
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Two-year Public Institutions	38	\$13,154
Two-year Non-profit Private Institutions	59	\$14,349
Four-year Public Institutions	38	\$30,044
Four-year Non-profit Private Institutions	39	\$38,307

Waiver Information: IHEs that do not meet the needy student enrollment requirement or the Core Expenses per FTE requirement may apply to the Secretary for a waiver of these requirements, as described in sections 392 and 522 of the HEA, and the implementing regulations at 34 CFR 606.3(b), 606.4(c) and (d), 607.3(b), and 607.4(c) and (d).

IHEs requesting a waiver of the needy student enrollment requirement or the Core Expenses per FTE requirement must include in their application detailed information supporting the waiver request, as described in the instructions for completing the application.

The regulations governing the Secretary's authority to waive the needy student requirement, 34 CFR 606.3(b)(2) and (3) and 607.3(b)(2) and (3), refer to "low-income" students or families. The regulations at 34 CFR 606.3(c) and 607.3(c) define "low-income" as an amount that does not

exceed 150 percent of the amount equal to the poverty level, as established by the U.S. Census Bureau.

For the purposes of this waiver provision, the following table sets forth the low-income levels (at 150%) for various sizes of families:

2016 ANNUAL LOW-INCOME LEVELS			
Size of Family Unit	Family Income for the 48 Contiguous States, DC, and Outlying Jurisdictions	Family Income for Alaska	Family Income for Hawaii
1	\$17,820	\$22,260	\$20,505
2	\$24,030	\$30,030	\$27,645
3	\$30,240	\$37,800	\$34,785
4	\$36,450	\$45,570	\$41,925
5	\$42,660	\$53,340	\$49,065
6	\$48,870	\$61,110	\$56,205
7	\$55,095	\$68,880	\$63,345
8	\$61,335	\$76,680	\$70,515

Note: We use the 2016 annual low-income levels because those are the amounts that apply to the family income reported by students enrolled for the fall 2015 semester. For family units with more than eight members, add the following amount for each additional family member: \$6,240 for the contiguous 48 States, the District of Columbia, and

outlying jurisdictions; \$7,800 for Alaska; and \$7,170 for Hawaii.

The figures shown under family income represent amounts equal to 150 percent of the family income levels established by the U.S. Census Bureau for determining poverty status. The poverty guidelines were published on January 25, 2016, in the *Federal Register* by the U.S. Department of Health and Human Services (81 FR 4036).

Information about "metropolitan statistical areas" referenced in 34 CFR 606.3(b)(4) and 607.3(b)(4) may be obtained at:

www.census.gov/prod/2010pubs/10smadb/appendixc.pdf

www.census.gov/prod/2008pubs/07ccdb/appd.pdf

Electronic Submission of Waiver Applications:

If your institution does not appear in the EM data system as one that is eligible for the program under which you plan to apply for a grant, you must submit an application for a waiver of the eligibility requirements. To request a waiver, you must upload a waiver narrative at: <https://hepis.ed.gov/title3and5/>

Exception to the Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper

format, if you are unable to submit an application electronically because--

- You do not have access to the internet; or
- You do not have the capacity to upload documents to the website;

and

- No later than two weeks before the waiver application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Mail or fax your statement to: Christopher Smith or Jason Cottrell, U.S. Department of Education, 400 Maryland Avenue, SW., room 250-10, Washington, DC 20202. Fax: (202) 401-8466.

Your paper waiver application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

Submission of Paper Applications by Mail.

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

Christopher Smith
U.S. Department of Education
400 Maryland Avenue, SW., room 250-10
Washington, DC 20202

You must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider waiver applications postmarked after the application deadline date.

Submission of Paper Applications by Hand Delivery.

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the application, on or before the application deadline date, to the Department at the following address:

Christopher Smith
U.S. Department of Education
400 Maryland Avenue, SW., room 250-10
Washington, DC 20202

We accept hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted in 2 CFR part 3474. (d) The regulations for certain Title III programs in 34 CFR part 607, and for the HSI program in 34 CFR part 606. (e) The notice of final requirements for the PPOHA program, published in the *Federal Register* on July 27, 2010 (75 FR 44055).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

Note: There are no program-specific regulations for the Part A AANAPISI, Part A NASNTI, and Part A PBI programs or any of the Part F, Title III programs. Also, there have been amendments to the HEA since the Department last issued regulations for the programs established under Titles III and V of the statute. Accordingly, we encourage each

potential applicant to read the applicable sections of the HEA in order to fully understand the eligibility requirements for the program for which they are applying.

II. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the waiver application in an accessible format (e.g., braille, large print, audio tape, or compact disc) on request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. Free internet access to the official edition of the *Federal Register* and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article

search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Frank T. Brogan,
Principal Deputy Assistant Secretary and
delegated the duties of the Assistant
Secretary, Office of Planning, Evaluation
and Policy Development
Delegated the duties of the Assistant
Secretary, Office of Postsecondary
Education.

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